

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GBEKE AWALA,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 06-590-KAJ
)	
MARTIN P. DURKIN, et al.,)	
)	
Defendants.)	

ORDER

Gbeke Awala ("Awala"), Reg. #82074-054, filed this action alleging violations of his constitutional rights. Awala proceeds *pro se*, and is currently an inmate at the Moshannon Valley Correctional Facility, Philadelphia, Pennsylvania. At the time he filed his complaint, he did not file a request for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, although he filed the complaint without prepayment of the \$350.00 filing fee. (D.I. 1.) The court takes judicial notice that in every civil case Awala has filed in this district, including the case at bar, he has not paid a filing fee. See; *Awala v. Koyste*, Civ. No. 05-097-KAJ; *Awala v. Federal Pub. Defender*, Civ. No. 05-281-KAJ; *Awala v. Congress*, Civ. No. 05-307-KAJ; *Awala v. Federal Reserve Bank*, Civ. No. 05-367-KAJ; *Awala v. U.S. Dep't of State Int'l Child Abduction*, Civ. No. 05-368-KAJ; *Awala v. State Of Delaware*, Civ. No. 05-369-KAJ; *Awala v. Stretton*, Civ. No. 05-472-KAJ; *Awala v. Jordan*, 05-783-GMS; *Awala v. Anderson*, Civ. No. 05-917-KAJ; and *Awala v. 8 U.S.C. Section 1326*, Civ. No. 06-012-KAJ. More so, prior exhibits Awala has filed with the court demonstrate that he has no funds to pay a filing fee. Accordingly, the court concludes that once again Awala is seeking *in forma pauperis*

status.

The Prison Litigation Reform Act ("PLRA") provides that a prisoner cannot bring a new civil action or appeal a judgment in a civil action *in forma pauperis* if he or she has three or more times in the past, while incarcerated, brought a civil action or appeal in federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). A case dismissed as frivolous prior to the enactment of the PLRA (i.e., April 26, 1996) is counted when applying the "three strikes rule". *Keener v. Pennsylvania Bd. of Probation & Parole*, 128 F.3d 143 (3d Cir. 1997). An exception is made to the "three strikes rule", when the prisoner is in imminent danger of serious physical injury. A prisoner who is not proceeding *in forma pauperis* may file a new civil action or appeal even if that prisoner has three or more dismissals described in 28 U.S.C. 1915(g).

According to the records of the Federal Courts, while a prisoner, Awala has filed at least twenty civil actions in various federal courts. See *Awala v. Delta Air Lines*, No. 1:05-CV-2128-JEC (N.D.Ga. Aug. 31, 2005). More than three of these cases were dismissed as frivolous or for failure to state a claim upon which relief may be granted: *Awala v. Federal Pub. Defender*, No. 05-4341 (3d Cir. Apr. 21, 2006); *Awala v. Wachovia Corp.*, No. 05-3381 (3d Cir. Dec. 8, 2005); *Awala v. People Who Want to Restrict Our First Amendment Rights*, No. 05-3863 (3d Cir. Dec. 8, 2005); *Awala v. 8 U.S.C. § 1326*, Civ. No. 06-012-KAJ (D. Del. Mar. 17, 2006); *Awala v. Stretton*, No. 05-472-KAJ (D. Del. March 3, 2006); *Awala v. U.S. Congress*, Civ. No. 05-307-KAJ (D. Del. Dec. 15, 2005); *Awala v. Delaware River and Bay Auth. Police Dep't*, No. 05-97-KAJ (D. Del. Dec. 15, 2005); *Awala v. State of New Jersey Dep't of Corr.*, No. Civ.A.

05-2362FLW (D.N.J. Aug. 23, 2005); *Awala v. Federal Pub. Defender*, No. 05-CV-281-KAJ (D. Del. Aug. 5, 2005). Accordingly, Awala may not file another civil action *in forma pauperis* while incarcerated unless he is in "imminent danger of serious physical injury" at the time of the filing of his complaint. 28 U.S.C. § 1915(g); *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 311 (3d Cir. 2001). Awala's complaint does not meet that standard.

Awala may not proceed *in forma pauperis*. He is given thirty (30) days from the date of this order to pay the \$350.00 filing fee. If Awala does not pay the filing fee within that time, the complaint shall be dismissed pursuant to 28 U.S.C. § 1915(g).

DATED:

10/3/06


UNITED STATES DISTRICT JUDGE